S.B. CR.MISC.BAIL APPL.NO.7516/2007.

Mubarik
Vs.
State

Date of order : 29/10/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. M.Iqbal Khan for the petitioner.
Mr. Harshvardhan Nandvana PP for the State.

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Heard learned counsel for the petitioner, learned Public Prosecutor for the State and perused the relevant documents placed before me.

Learned counsel for the petitioner has argued that there is no specific allegation against the petitioner in the FIR and only it is alleged that he accompanied the co-accused Azad S/o Jumme Khan, Janu S/o Rahim Khan, Mubin S/o Deenu and Deenu S/o Rahim Khan who came armed with guns at the site of the incident and opened fire at the complainant Deen Mohd. and his daughter Sanjeeda. Only overt act assigned to the petitioner is that he alongwith three others pelted stones at the complainant. Although, the learned trial court while rejecting the bail application of the petitioner has noted that recovery of the empty cartridges and gun has been

made at his but co-accused Mubin and Janu have already been enlarged on bail by the order of the co-ordinate Bench of this Court dated 23/10/2007 in S.B.Cr.Misc.Bail Application No.6575/2007. A perusal of their rejection order indicates that the allegation against co-accused Mubin was that he was loading the gun and giving it to co-accused Janu who fired whereas, there is no such allegation against the petitioner. It was argued that case of the petitioner therefore stands on better footing than that of co-accused Janu because for the recovery made at his instance, no specific overt act of using gun has been assigned to him either in the first information report or in any of the rejection orders. The injuries suffered by both the injured i.e. Deen Mohd. and Mst.Sanjida are simple in nature.

Learned Public Prosecutor has opposed the bail application and argued that in view of the allegation against the petitioner, he is not entitled for indulgence of grant of bail pending trial.

Without expressing any opinion on the merits of the case but taking into consideration

the aforesaid arguments and the fact that co-accused Mubin and Janu have already been enlarged on bail and petitioner is in jail since 8/10/2007, I deem it appropriate to enlarge the petitioner on bail.

In the result, this bail application u/S.439 Cr.P.C. is allowed and it is directed that petitioner Mubarik son of Deenu Khan shall be released on bail in F.I.R. No.245/2007 P.S. Tapukada, Alwar for offences under Sections 143, 323, 30 IPC and Section 3/25 of the Arms Act subject to his furnishing a personal bond in the sum of Rs.30,000/- together with two sureties in the sum of Rs.15,000/- each to the satisfaction of the trial Court for his appearance before that court on all dates of hearing until conclusion of the trial.

(MOHAMMAD RAFIQ), J.

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